

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.557 OF 2022

Imran Majid Pathan

Versus

State of Maharashtra, through P.S.O., P.S. Khamgaon (City), Tah. Khamgaon, Dist.
Buldhana

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Z.Z. Haq, Advocate for the applicant.

Shri S.D. Sirpurkar, A.P.P. for the non-applicant/State.

Shri Aarti Singh, Advocate for the non-applicant No.2/Victim.

CORAM : ANIL S. KILOR, J.

DATED : 14/07/2022

1. The applicant is seeking pre-arrest bail in Crime No.27 of 2022, dated 13.01.2022, registered with Police Station, Khamgaon (City), District: Buldhana, for the offences punishable under Sections 363, 376, 376(2)(n), 366(a), 452, 342 and 506 read with Section 34 of the Indian Penal Code and Sections 4, 8, 12, 17 and 21 of the Protection of Children from Sexual Offences Act (hereinafter referred to as "POCSO Act").

2. Shri Haq, learned counsel for the applicant submits that the applicant has been falsely implicated in the alleged offence as no overt act is attributed to the applicant. It is submitted that the only allegation against the applicant

is that he provided his residence in Pune for three days to the victim and co-accused Razik.

3. It is submitted that his custody is no more necessary, in view of the fact that after completion of the investigation, the charge-sheet has been filed.

4. It is further submitted that the applicant is in jail since 27.01.2022 i.e. for about seven months. Accordingly, he prays for grant of bail.

5. On the other hand, Shri Sirpurkar, learned APP strongly opposes the present application and submits that the offence is serious and accordingly, he prays for rejection of the present application.

6. Ms Aarti Singh, learned counsel for the non-applicant No.2/Victim reiterates the submission of the learned APP.

7. I have perused the charge-sheet, application and reply of the State.

8. From the charge-sheet, it appears that the only allegations against the applicant is that he had provided his residence at Pune for three days to the main accused and the victim. No overt act is attributed against the applicant, as far

as, the serious offences under Sections 363, 376, 376(2)(n) and 366(a) of the IPC is concerned.

9. The investigation is completed and the charge-sheet has been filed. As such, further custody of the applicant is not necessary.

10. There is nothing to point out that if the applicant is released on bail, he may tamper with the prosecution evidence or he may not be available for the trial. In that view of the matter, I pass the following order:

- a) The criminal application is **allowed**.
- b) It is directed that the applicant shall be released on bail in Crime No.27 of 2022, dated 13.01.2022, registered with Police Station, Khamgaon (City), District: Buldhana, for the offences punishable under Sections 363, 376, 376(2)(n), 366(a), 452, 342 and 506 read with Section 34 of the Indian Penal Code and Sections 4, 8, 12, 17 and 21 of the Protection of Children from Sexual Offences Act (hereinafter referred to as "POCSO Act"), the applicant shall be released on bail on furnishing P.R. Bond of Rs.25,000/- with one solvent surety in the like amount.

- c) The applicant shall attend the concerned Police Station as and when his presence is required.
- d) The applicant shall not tamper with the prosecution witnesses.
- e) The applicant shall not leave the jurisdiction of the concerned Police station without permission of the Court.
- f) Fees of the learned counsel for the non-applicant No./Victim, be quantified as per the Rules.

The criminal application is **disposed of**, accordingly.

[ANIL S. KILOR, J.]